



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,260	06/27/2001	Shigenori Terada	2001-0900A	2441

513 7590 08/27/2002

WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
----------	--------------

1772

DATE MAILED: 08/27/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/869,260

Applicant(s)

TERADA ET AL.

Examiner

Christopher P Bruenjes

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Objections***

1. Claim 1 is objected to because of the following informalities: Claim 1 has three sentences, and claims are only allowed to be one sentence long. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(a) as being anticipated by El-Afandi et al (USPN 5,849,401).

El-Afandi anticipates a biodegradable bag (col. 1, lines 18-21) comprising a laminate of a biaxially oriented film of which the major component is a polylactic acid-family polymer (col. 19, lines 6-10) and a film of which the major component is an aliphatic polyester (col. 16, lines 6-14) having the

Art Unit: 1772

structure of the claimed formula and having a crystallizing melting heat of at least 30J/g and less than 100J/g (col. 17, lines 42-44). The bag is made by co-extruding, which is a type of heat-sealing (col. 8, lines 15-18). One embodiment of the structure includes only a two-layer structure in which the core layer becomes an outer later (col. 4, lines 40-44). El-Afandi also gives examples of the film of which the major component is aliphatic polyester with weight-average molecular weight to be 66000 to 102000 (col. 23, lines 66-67). The aliphatic polyester is a copolymer of which the major components are 1,4-butanediol, succinic acid, and adipic acid (col. 16, lines 15-20).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for

Art Unit: 1772

establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over El-Afandi et al (USPN 5,849,401) in view of Mennella (USPN 5,018,876).

El-Afandi anticipates everything that is claimed in claim 1 and that the aliphatic polyester is a copolymer of which the major components are 1,4-butanediol, succinic acid, and adipic acid. El-Afandi fails to teach a zipper made of a biodegradable resin provided at the mouth portion. However, adding zippers to the mouth portion of a bag is notoriously well known in the art in order to make it easier to open and close a bag, and Mennella teaches that a biodegradable zipper is attached to a biodegradable bag (col. 1, lines 34-38) so that the entire bag is biodegradable. Therefore, one of ordinary skill in the art would have recognized that a biodegradable zipper is attached to the mouth portion of a biodegradable bag so that all the parts

Art Unit: 1772

of the bag are biodegradable and the bag is easy to open and close as taught by Mennella.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach a biodegradable zipper to the mouth portion of a biodegradable bag of El-Afandi in order to make all the parts of the bag biodegradable and the bag easy to open and close as taught by Mennella.

#### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oya et al (USPN 6,153,276)

McCarthy et al (USPN 5,883,199)

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 703-305-3440. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the

Art Unit: 1772

organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher P Bruenjes  
Examiner  
Art Unit 1772

CPB  
August 21, 2002

*Nasser Ahmad*  
**NASSER AHMAD**  
**PRIMARY EXAMINER**  
*Acting SPB*